

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK KLAWITER,

Plaintiff,

CASE No. 1:24-CV-851

v.

HON. ROBERT J. JONKER

STATE OF MICHIGAN, et al.,

Defendants.

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Berens' Report and Recommendation in this matter (ECF No. 3). A copy of the Report and Recommendation was mailed to Defendant and remailed to him on August 29, 2024. On September 13, 2024, the Clerk's Office docketed a submission from Plaintiff as a supplement to his Complaint. (ECF No. 6). The filing does not address the Report and Recommendation, and the time for doing so has passed.

Under the Federal Rules of Civil Procedure, where a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in such circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

As noted, Plaintiff does not address the Magistrate Judge's Report and Recommendation. Accordingly, it is questionable whether de novo review is even required. Nevertheless, even under a de novo review, the Court is satisfied that the Magistrate Judge properly determined that Plaintiff's claims against the defendants is barred by Eleventh Amendment immunity. Nothing in Plaintiff's supplement changes things. The Court determines that the Magistrate Judge carefully and thoroughly considered the record and the governing law. The Magistrate Judge properly analyzed Plaintiff's claims. The Report and Recommendation is factually sound and legally correct. The Court determines that this action must be dismissed, for the very reasons detailed by the Magistrate Judge.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 3) is **APPROVED AND ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that the case is **DISMISSED** for lack of jurisdiction.

A separate Judgment shall enter.

Dated: September 24, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE